☞05hr_SSC-DNRRR_Misc_pt06b

☞ **Exhibits/comments submitted by Tilton. RE: DNR study regarding Lower St. Croix ordinary high water mark.**

(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ...
PUBLIC HEARING - COMMITTEE RECORDS

2005-06

(session year)

Senate Select

(Assembly, Senate or Joint)

Committee on ... DNR (SSC-DNRRR)

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
  (**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
  (**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

* Contents organized for archiving by: Mike Barman (LRB) (July/2012)

EXHIBIT A

to Tilton Comments to DNR OHWM 'Study' for the Lower St. Croix, Containing DNR Materials with Page Numbers Added

(BOOK 1 OF 2)

LIST OF EXHIBITS TO TILTON COMMENTS RE WI DNR 'STUDY' REGARDING LOWER ST. CROIX ORDINARY HIGH WATER MARK

EXHIBIT A	DNR "Study" materials and additional selected materials with numbering added
EXHIBIT B	Aerial Photos of Tilton shoreline
EXHIBIT C	Photos of Tilton shoreline taken during October 2005 site surveys and investigations done by Dr. David Biesboer and Graham Environmental Services, Inc, including photos taken with stakes showing DNR's proposed OHWM of 681.5
EXHIBIT D	Reduced version of 10/28/04 Tilton Tree Survey, with names and dimensions of trees removed. Only trees 4" or larger were surveyed. See Exhibit L for full Tilton Tree Survey, including names and dimensions of trees
EXHIBIT E	Graham Environmental Services, Inc., Lower St. Croix Ordinary High Water Mark Evaluation Report, including photos of Tilton site and Lake Mallalieu-Union Pacific RR site OHWM indicators and location of DNR's proposed OHWM of 681.5
EXHIBIT F	Report of Professor David D. Biesboer, Ph.D., University of Minnesota Professor of Biology, dated 10/26/05, regarding OHWM indicators on Tilton property and re DNR 'study' methodology in general
EXHIBIT G	BARR Engineering Report, dated 10/29/04, regarding Tilton OHWM and other matters
EXHIBIT H	William L. Tilton letter to DNR % Robert Baczynski, dated 8/8/05, containing commentary relevant to DNR's OHWM 'study'
EXHIBIT I	Miscellaneous notes by W. Tilton upon initial partial review of DNR OHWM 'study' materials. These notes were compiled 9/15 and 10/3/05 and contain commentary re DNR staff's use of criteria not contained in the Diana decision nor in Chapter 40, re DNR staff's lack of scientific method, re ignorance of or misuse of Chapter 40 and Diana criteria, etc. These notes are incomplete and are provided simply as further illustration of the many omissions and inadequacies contained in the DNR 'study' materials.

EXHIBIT J (a) Memo to River House File from WLTilton dated 11/11/04 regarding site visit to Tilton property by DNR, including detail re refusal of E. Post to look at OHWM indicators on the Tilton property and her inability to articulate what were the OHWM indicators relevant to the Tilton property; (b) Email of WI DNR to St. Croix Co. Zoning, including comment of Eunice Post dated 12-15-04 stating Tilton OHWM is 682 and would be further determined per DNR's ongoing 'study;' (c) Public Statement distributed by Eunice Post, WI DNR, on or about 1/13/05, inviting suggestions of additional sites for DNR 'study.' This is part of Exhibit 1 at pages 1050-1051; compare to August 2005 statement in final DNR 'study' report that there was not time for DNR staff to investigate additional sites as part of their OHWM study – *i.e.*, as DNR's dishonest explanation why DNR staff failed to make any on-site study of the Tilton shoreline, despite Tilton's requests since 1999 that they do so; despite E. Post's site visit in November 2004; and despite Tilton's October 2004, February 2005 and August 2005 specific requests that an OHWM investigation and determination be made specifically at and for the Tilton property."

EXHIBIT K Miscellaneous Experts' Curriculum Vitaes

EXHIBIT L Tilton "Tree Survey" dated 10/19/04 containing location of all trees on Tilton property 4" or thicker at breast height, with notation of tree dimensions and type. This is the full-sized and detailed version of the reduced survey contained in Exhibit D.

EXHIBIT #1

(A)

WELCOME – Public Hearing regarding the petition of the DNR for a determination of the OHWM of portions of the St Croix River.

RJB, Team Leader, DNR Short intro-how we have gotten to where we are today

* Over the years, staff have made numerous OHWM determinations on this portion of the SCR

Concerned members of the public went on record at the May 26, 2004 Natural Resources Board meeting in Mosinee, WI stating that the ordinary high water mark (OHWM) for Lake St. Croix is not consistent with the State of Minnesota's elevation for measuring setbacks and that the Wisconsin DNR needs to change that.

The following is an excerpt from the Petition for declaratory ruling:

The grounds for this petition are to determine the elevation of the OHWM in and along the portion known as the "state zone" of the St. Croix River, because of the following:

The Department received public comments questioning the accuracy of the elevations of the existing OHWMs in and along the St Croix River, and responded by offering to re-evaluate the elevations of the OHWM in and along the portion of the St. Croix River commonly referred to as the "state zone."

The portion of the St. Croix River known as the "state zone" extends from Prescott, Wisconsin north to approximately the Arcola sandbar, which is slightly more than three miles north of Houlton, Wisconsin.

Currently, the elevations of the OHWM in and along the "state zone" for the St Croix National Wild and Scenic River were determined and are established as:

687 feet mean sea level, 1912 Corps adjusted datum, Section 9, T26N, R20W, in the City of Prescott, Pierce County, Wisconsin

682 feet mean sea level, 1912 Corps adjusted datum, *Murzoff property*, Section 12, T28N, R19W, in the Town of Troy, St Croix County, Wisconsin

685.75 feet mean sea level, 1912 Corps adjusted datum, *Union Pacific Railroad property*, Section 24, T29N, R20W, in the City of Hudson, St Croix County, Wisconsin

The reason for the requested ruling is that the Department has received public comments questioning the accuracy of these existing OHWM elevations and is asking that the ordinary high water mark elevation on the St Croix River be reduced from these currently established elevations to 675 feet mean sea level, 1912 Corps adjusted datum.

000101

The timeline proposed, and actions planned in conducting the OHWM process:

- August 18, 2004 – A letter was sent out to municipalities and PT members inviting them to participate in field data collection visits.
- August/September 2004 – First 2 field data collection dates were conducted. DNR and partners (Lake Mallalieu, Kinni SP)
- September 2004 – DNR attended Lower St Croix Partnership Team Meeting for informational briefing.
- September 16, 2004 – News release sent to media and PT identifying the process.
- October 2004 – Dan Baumann, Water Team Leader, DNR attended Lower St Croix Management Commission meeting to provide OHWM process update
- December 22, 2004- News release sent to media and PT identifying January public meeting dates in Prescott and Hudson to describe the OHWM determination process.
- January 12, 13, 2005 – conducted public informational meetings
- May/June 2005- Conducted three field data collection visits (Prescott, Troy, Somersett (Twin Springs))
- July 7, 2005- News release sent to media, PT and Jan participants identifying July public meeting dates in Prescott and Hudson to share information collected to date.
- July 27, 28, 2005 – held public informational meetings.
- August 12, 2005 Public Notice sent to media, PT, Jan/July participants identifying the date of the declaratory hearing on August 31, 2005.
- August 24, 2005 - News release sent to media, PT, Jan/July participants identifying the Departments field work findings.
- August 31, 2005 – conduct the Declaratory Ruling hearing.
- September 30, 2005 4pm- Public Record closes.

Introduce E ? or Dale ?

Dan suggest Comments → Molly read her letter

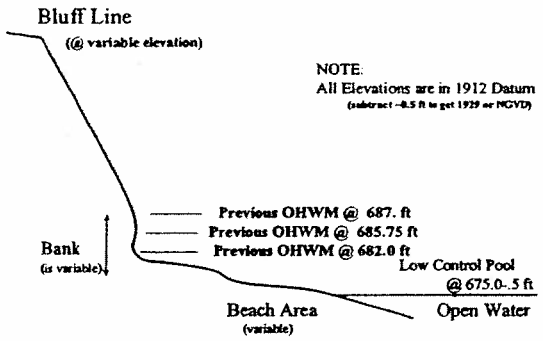
Clapp
Rolle

000102

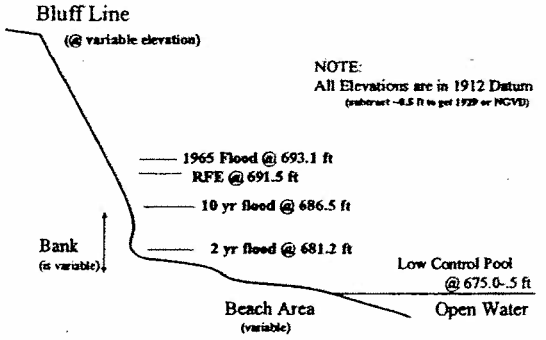
EXHIBIT
2

Water & Elevation Data for the St Croix River

Previous OHWM Elevations

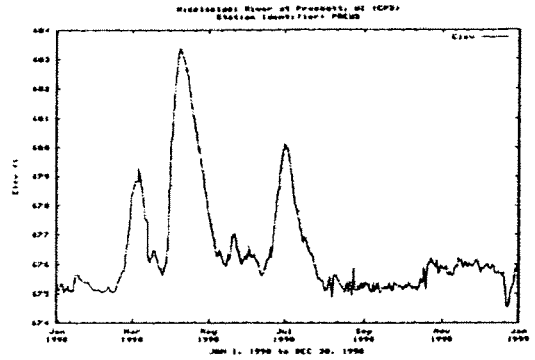


Elevations @ Prescott vs Typical Cross Section

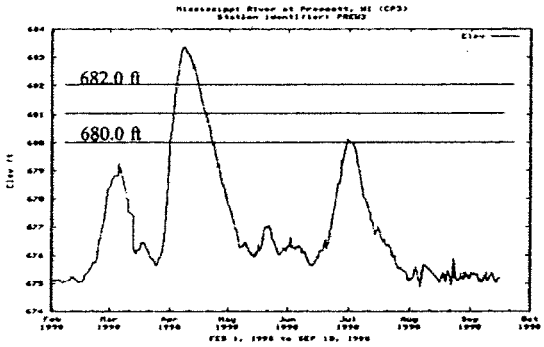


000103

1998 Elevation Data @ Prescott (1912 adj)



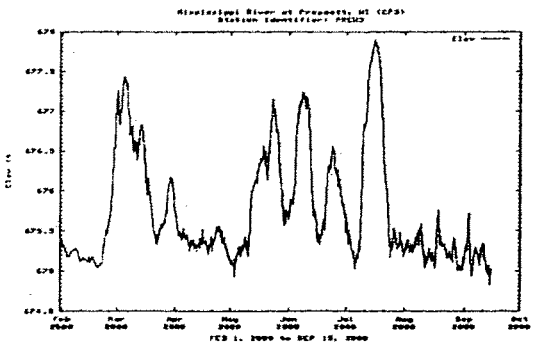
1998 Elevation Data @ Prescott
(1912 adj)



? Atypical Years

SKEWED DATA does NOT INCLUDE Nov, Dec, Jan = 9/12 of Data

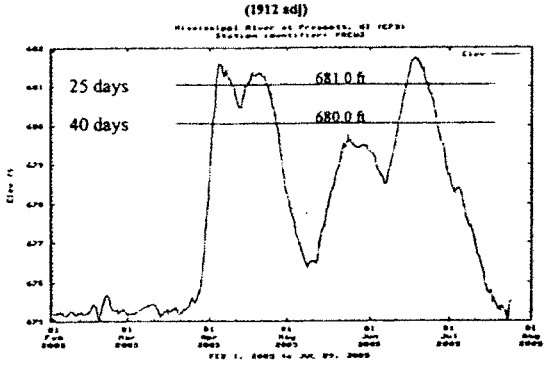
2000 Elevation Data @ Prescott
(1912 adj)



000104

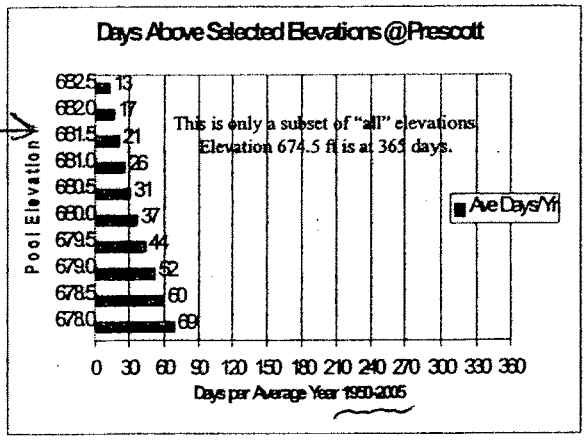
2005 Elevation Data @ Prescott

(1912 adj)

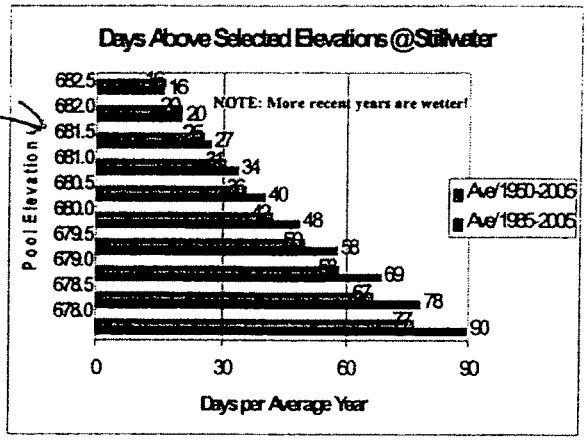


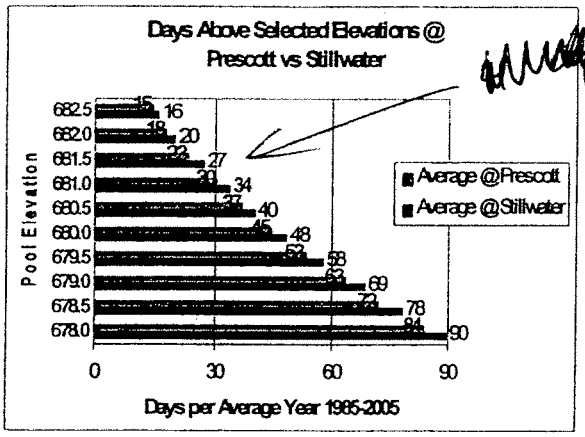
Number of days given levels are reached?
OR
"Percent of time at or above indicated elevation"

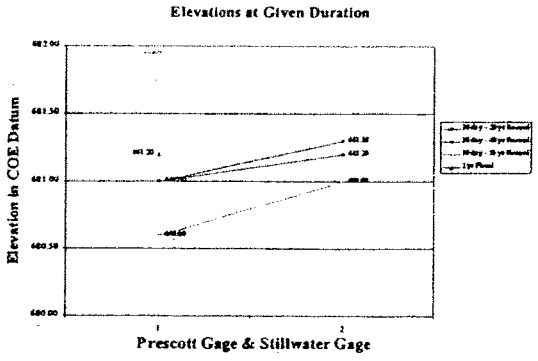
Also known as Inundation Duration



000105

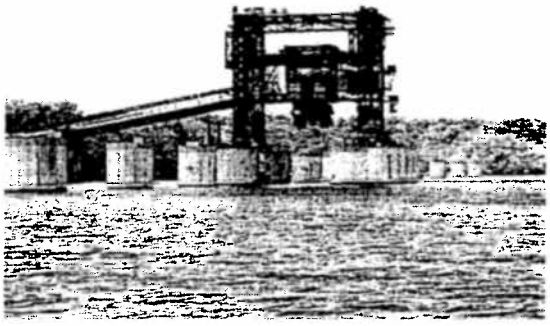

Days Above Selected Elevations @Stillwater
NOTE: More recent years are wetter!
Pool Elevation
682.5
682.0
681.5
681.0
680.5
680.0
679.5
679.0
678.5
678.0
16
20
27
34
40
48
58
69
78
90
Ave/1950-2005
Ave/1985-2005
0
30
60
90
Days per Average Year


Days Above Selected Elevations @
Prescott vs Stillwater
Pool Elevation
682.5
682.0
681.5
681.0
680.5
680.0
679.5
679.0
678.5
678.0
16
20
27
34
40
48
58
69
78
90
Average @Prescott
Average @Stillwater
0
30
60
90
Days per Average Year 1985-2005


Elevations at Given Duration
Elevation in COE Datum
Prescott Gage & Stillwater Gage

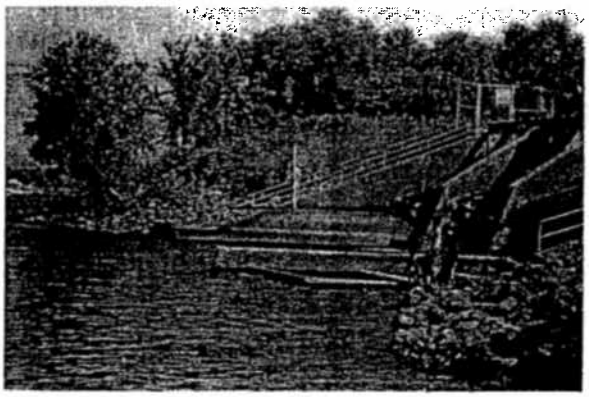
000106

Stain Line was found at 681.55 ft



Hudson Dam in 1998 pre-modifications

Hudson Dam July 13, 2005, Water Level @ 676.4



000107

Section Divider

DEPARTMENT OF THE ARMY
ST. PAUL DISTRICT, CORPS OF ENGINEERS
190 FIFTH STREET EAST
ST. PAUL MN 55101-1638

EXHIBIT
3

August 31, 2005

Operations
Regulatory Branch

Mr. B. Dale Simon
Wisconsin Department of Natural Resources
101 S. Webster, FH/6
Madison, Wisconsin 53707

Dear Mr. Simon,

This letter concerns the Notice of Public Hearing regarding the Petition of the Department of Natural Resources for a determination of the Ordinary High Water Mark (OHWM) on the portion of the St. Croix River commonly known as Lake St. Croix. This hearing is scheduled for Wednesday, August 31, 2005, at the St. Croix County Government Center.

While the Corps has no comment on the proposal of the WDNR to establish an OHWM for the purposes of administering its state regulatory programs, I believe that it is important to note that the Corps also uses the term Ordinary High Water Mark in our federal Regulatory programs and that the term may have different meanings under federal and state law.

In reviewing federal and state OHWM determinations on the St. Croix River, it has been our experience that, in some circumstances, the Corps has determined an OHWM that is different than the OHWM established under Wisconsin law. Therefore, we believe that it is important that both the WDNR and the general public be aware of the potential jurisdictional differences between our respective state and federal regulatory programs.

As a matter of general information, the U.S. Army Corps of Engineers regulates dredging, the construction of structures, other work, and discharges of dredged or fill material in the St. Croix River under the authority of the Rivers & Harbors Act of 1899 and section 404 of the Clean Water Act. The Corps' regulations define the term Ordinary High Water Mark under those two laws as follows:

For purposes of the Rivers and Harbors Act of 1899, the Corps' regulations at 33 C.F.R. 329.11 (a)(1) define "The "ordinary high water mark" on non-tidal rivers is the shore established by the fluctuations of water and indicated by physical characteristics such as clear, natural line impressed on the bank; shelving; changes in the character of soil; destruction of terrestrial vegetation; the presence of litter and debris; or other appropriate means that consider the characteristics of the surrounding areas."

For purposes of § 404 of the Clean Water Act, the Corps' regulations at 33 C.F.R. 328.8(e) provide the following definition: "The term ordinary high water mark means that line on the shore established by the fluctuations of water and indicated by physical characteristics such as clear, natural line impressed on the bank, shelving, changes in the character of the soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas."

Many people are familiar with the term "flat pool" that the Corps uses with respect to regulating water elevations at the locks and dams along the Mississippi River. Lock and Dam #3 has a flat pool that extends up the St. Croix River, past Lake St. Croix. Please note, however, that the flat pool elevation is not equivalent to the OHWM and those terms should not be used interchangeably.

I believe that it would be helpful to the general public if WDNR's OHWM determination included a notation clarifying that it is applicable only to the state's regulatory programs and that the Corps should also be contacted regarding its federal permitting requirements.

Thank you for the opportunity to comment at this proposal.

Sincerely,

Robert J. Whiting
Chief, Regulatory Branch

Section Divider

EXHIBIT LIST

Exhibit A—Background

A.01) August 18, 2004 letter from Dan Baumann
A.02) DNR Self-Petition for Declaratory Ruling
A.03) News Release for January 12 & 13, 2005 public meetings
A.04) News Release for July 27 & 28, 2005 public meetings
A.05) News Release for August 31, 2005 Declaratory Ruling public hearing
A.06) Riverway map
A.07) St. Croix County Lakes Directory
A.08) Pierce County Lakes Directory
A.09) Original government survey maps
A.10) USGS map
A.11) St. Croix County plat map
A.12) Pierce County plat map
A.13) Riverway Management Zones map
A.14) Aerial photos
A.15) Emails about shoreland & shoreland/wetland zoning administration by local governments
A.16) Previous OHWM survey notes

Exhibit B---OHWM Evaluation Methods, Guidance and Case Law

B.01) Chapter 40, Waterway and Wetland Guidebook
B.02) *Lawrence v. American Writing Paper Co.*, 144 Wis. 556 (1911)
B.03) *Diana Shooting Club v. Husting*, 156 Wis. 261 (1914)
B.04) *State v. MacDonald Lumber Company, Inc.*, 18 Wis.2d 173 (1962)
B.05) *State v. Trudeau*, 139 Wis.2d 91 (1987)

Exhibit C---Field Work Information

C.01) January 12 & 13, 2005 Powerpoint presentation
C.02) July 27 & 28, 2005 Powerpoint presentation
C.03) Twin Springs (TS1) profile of transect 1
C.04) TS1 soils photos/chart
C.05) TS1 vegetation inventory
C.06) TS1 site photos
C.07) Twin Springs (TS2) profile of transect 2
C.08) TS2 soil photos/chart
C.09) TS2 vegetation inventory
C.10) TS2 site photos
C.11) Lake Mallalieu Dam (LMD1) profile of transect 1
C.12) LMD1 site photo
C.13) Union Pacific RR (UP2) profile of transect 2
C.14) UP2 soil photos/chart

C.15) UP2 vegetation inventory
C.16) Rolle property (R1) profile of transect 1
C.17) R1 vegetation inventory
C.18) R1 site photos
C.19) Rolle property (R2) profile of transect 2
C.20) R2 vegetation inventory
C.21) R2 site photos
C.22) Kinnikinnic Park (K1) profile of transect 1
C.23) K1 soil photos/chart
C.24) K1 vegetation inventory
C.25) K1 site photos
C.26) Kinnickinnic Park (K2) site photos
C.27) Prescott (P1) profile of transect 1
C.28) P1 soil photos/chart
C.29) P2 vegetation inventory
C.30) P1 site photos
C.31) Prescott (P2) profile of transect 2
C.32) P2 soil photos/chart
C.33) P2 vegetation inventory
C.34) P2 site photos

Exhibit D---Field Work Wrap Up

D.01) August 31, 2005 Powerpoint presentation

Exhibit E---Additional Information Received To Date

E.01) Tilton county permit application package with OHWM determination
E.02) Mosses information sheet
E.03) Hudson OHWM email correspondence
E.04) OHWM letter from MDNR explaining differences in OHWM between MN and WI

The water level of the St Croix at low control pool is elevation 675.2 feet mean sea level, 1912 Adjustment, Corps datum. This elevation is maintained by the Corps of Engineers Lock & Dam 3 at Red Wing, MN. Detailed water level information is provided by Gary Lepak, DNR Water Management Engineer.

Most of the lower 25 miles is privately owned, with the exception of public beaches, public accesses both developed and undeveloped, parks and other parcels owned by local governments, Mallalieu Dam, and Kinnickinnic State Park.

Adjacent land use in the lower 25 miles of river is high density residential in the south to rural residential in the north. The river corridor is classified in the Cooperative Management Plan, Lower St Croix National Scenic Riverway, January 2002, (See Exhibit A.13) as follows:

Rural residential-beginning at boundary of the federal/state zone south to North Hudson
Small town-North Hudson
River town--Hudson and approximately 2 miles south of Hudson
Rural residential-south of Hudson to Kinnickinnic State Park
Conservation—Kinnickinnic State Park and land immediately north and south
Rural residential---from south of Kinnickinnic to Prescott north city limit
River town—Prescott

The northernmost portion of this OHWM study includes rural residences on which the National Park Services owns scenic easements. The area south of Twin Springs boat landing to Houlton, Wisconsin, is rural residential and many of the houses are nonconforming structures. In Houlton, residential development is primarily on top of the river bluffs and east at Hwy 35 on the Wisconsin side of the Stillwater lift bridge. The city of Stillwater, MN, is the riparian owner of the land adjacent to the bridge in Wisconsin. From Houlton to North Hudson is higher density rural residential with mostly nonconforming structures. There are only two sizable undeveloped parcels of land remaining in this area. North Hudson, Hudson, and south in the "Cove area" have very dense residential development, most are nonconforming structures for riverway, floodplain and shoreland zoning. Dense residential development with primarily nonconforming structures extends from the Cove area to Prescott. The exception is Kinnickinnic Park and a couple of other undeveloped parcels (See Exhibit A.14)

For purposes of riverway, shoreland and shoreland/wetland zoning, St Croix and Pierce counties both classify the St Croix as a river. The village of North Hudson and the cities of Hudson and Prescott all classify the St Croix as a river (See Exhibit A.15)

Previous OHWMs were set at 682 at the Marzoff property, Town of Troy, St Croix County, 685.75 at the Union Pacific RR property, North Hudson, St Croix County and 687 at the Gresser property, Prescott, Pierce County. The Department does not have the survey information for the 682 and 687 OHWMs. The 685.75 OHWM was set and surveyed by Department staff (See Exhibit A.16).

OHWM Evaluation

The Department conducted field work to re-evaluate the locations of the OHWM on August 31, 2004; September 7, 2004; May 17, 2005; May 18, 2005; and May 19, 2005.

Section Divider

August 31, 2004—The field work was done at the Lake Mallalieu Dam. Transect 1, and the Union Pacific Railroad property south of the dam, Transect 2. The fieldwork team consisted of Dale Holmuth and Molly Shodeen. Minnesota DNR: Dan Seemon. U.S. Army Corps of Engineers: Jim Kleinhans and Emily Lund. Pierce County: Gregg Breese and Eunice Post. Wisconsin DNR (WDNR).

September 7, 2004---Kinnickinnic State Park backwater slough area. Transect 1, pier area. Transect 2. The fieldwork team consisted of Molly Shodeen, Minnesota DNR: Dan Seemon, U.S. Army Corps of Engineers; Jim Kleinhans and Emily Lund, Pierce County: Deb Konkel, Gary Lepak, Dan Helsel and Eunice Post, WDNR.

May 17, 2005----City of Prescott property at north end Lake St, Transect 1, and at south end of property line, Transect 2. The fieldwork team consisted of Bob Rolle and Francis Ogden: Jayne Brand and Jerry Killian, city of Prescott: Jim Kleinhans and Emily Lund, Pierce County: and Eunice Post, WDNR. Also present were Paul Montgomery, Paul Mosby, Mike Hadrian and Charlie Macdonell—if others joined this group, Post was unaware of it.

May 18, 2005---Rolle property at approximately 600 feet from north end of property, Transect 1; and approximately 1150 feet from north end of property, Transect 2 (distances given by Bob Rolle). The fieldwork team consisted of Bob Rolle and Francis Ogden: Gary Lepak and Eunice Post, WDNR. Also present was Bill Tilton. Jim Kleinhans and Emily Lund were also present to identify soils, but could not as explained above.

May 19, 2005---Twin Springs Boat Landing, south of landing, Transect 1, and north of landing, Transect 2. The fieldwork team consisted of Buzz Marzoff; Bob Rolle: Tom Nelson former St Croix Co zoning administrator: Randy Ferrin, U.S. National Park Service; Gary Lepak, Deb Konkel and Eunice Post, WDNR.

June 22, 2005, Gary Lepak and Eunice Post revisited field sites to do follow up survey work; however, water levels were significantly high enough to prevent surveying.

June 30, 2005---Gary Lepak, Conservation Warden Dave Hausman and Eunice Post took pictures of field sites as viewed from the river and other physical indicators: e.g. barge dolphins at the King Power Plant, bridge piers and abutments, riprap.

July 12 & 13, 2005---Gary Lepak and Eunice Post revisited some field sites to survey additional indicators. Also surveyed was the water stain on the riprap on the Stillwater bridge causeway, the area immediately south of the Mallalieu dam downstream embankment and the Prescott field site.

These sites were selected for a variety of reasons. The sites are fairly equally spaced, they provide examples of the shoreline diversity in this reach of the river, minimal trespass concerns, did not unduly inconvenience private landowners, and two sites requested to be evaluated. The Department did receive other requests to have the OHWM evaluated, but logistically could not conduct the needed field work and meet the August 31 public hearing deadline.

The Department has also received public input that four of the five field sites are "disturbed" and that only the Rolle property is "undisturbed." Department staff disagree. A site is "disturbed" if OHWM indicators have been eradicated by artificial alterations and cannot be found. Sites with artificial

alterations can have OHWM indicators, usually when the alteration is fairly old and unchanged so that natural forces can leave marks or revegetate over time. Our field sites had the following artificial alterations:
Twin Springs has a manmade, earthen boat landing and small parking that was built on a naturally-occurring depositional area. Transects were upstream and downstream of the landing and not in the "used" area. Biological and physical indicators were found at both transects.

Lake Mallalieu dam was reconstructed in 1935 after a flood. It is an artificial alteration that has been in place, substantially unchanged, for 70 years. During those 70 years the presence of water has created stains on the dam abutment walls.

The Union Pacific RR property has an abandoned railroad grade inland from our field site. The site has since revegetated and there are several healthy mature trees. Biological and physical indicators are numerous.

The Rolle property has an abandoned logging road embankment (per Bob Rolle). The site has since revegetated and biological and physical indicators were found at both transects.

The Kinnickinnic Park property, transect 1, is the site of a former Corps dredge disposal area. Dredge materials have not been deposited there since the early 1980s. Since then, the site has revegetated and both biological and physical indicators were found at this transect. The sand beach abutting the main river channel is sustains heavy public use, but the backwater slough area does not. The pier area, transect 2, has the boat landing, the riprap on the bank, the pier, and the natural riprap upstream of the pier. Over time, the presence of water has created a stain on the riprap. The area upstream of the pier has natural riprap with vegetation growing at the top. The natural riprap has a water stain consistent in color and location to the stain on the artificial riprap. This stain is a physical indicator.

The Prescott site was identified as undisturbed by city staff, but the public input received purports this site as the former public beach. Biological and physical indicators were numerous at both transects.

The task of the field teams was to find physical evidence to locate the OHWM according to the guidance in Chapter 40, Water Regulation and Zoning Guidebook (See Exhibit B.01). We followed the guidebook as closely as possible; however, this is a guidebook and does not address every situation. We also used the Wisconsin Supreme Court definition of OHWM in Diana Shooting Club v. Husting (1914) and other relevant case law (See Exhibits B.02-B.05). Scientific parameters and indicators used to find the OHWM as identified in the Guidebook:

- Water marks (stains)
- Erosion marks (scars)
- Destruction of terrestrial (upland) vegetation
- Soils
- Morphological plant adaptations
- Plant stress
- Water level records
- Waterbody size (area, slope of bed)
- Artificial physical alterations of the bed and bank (not naturally occurring, man induced disturbances)

All elevations used are 1912 Adjustment, Corps datum. Horizontal measurements began at the water's edge, for that day's water level, starting at 0.

Kleinhans, Lund and Nelson identified soils (Note: Soils could not be identified at the Rolle property due to the naturally-occurring riprap of river rock and presence of bedrock and at the Mallalieu Dam because of riprap placed to protect the dam abutments (an artifical physical alteration). Konkel, Seemon, and Post identified vegetation. Lepak, Helsel, Ferrin and Post did survey work—surveying was done on 9/7/04 and 5/18/05 and 5/19/05. All team members located and helped document biological and physical indicators, water level on the given field day, and artificial physical alterations. Some additional sites were surveyed on 7/12/05 and 7/13/05 because of the presence of water stains, a physical indicator.

Field Work Information

Public informational meetings were held by the Department on January 12 & 13 and July 27 & 28, 2005; to present the field data that was collected, answer questions and take comments about the data, and to ask for additional information and data to help in the effort to find an accurate OHWM. (See Exhibits C.01 & C.02).

Twin Springs Boat Landing
Transect 1—south of the landing (See Exhibit C.03)
Soil borings at 10-, 20-, 30-, 40-, 50-, 60-, and 70-feet from 0. Hydric soils present from 0-60 and base of slope at 65 feet, elevation 681.92 (See Exhibit C.04)
Vegetation was all hydric from 0-65 feet at base of slope, elevation 681.92. At 65+ feet vegetation break from all hydric to some terrestrial (See Exhibit C.05).
Physical indicators from 0-70 were water stains on trees close to river (elevation 681.48 and 681.88)--but not farther inland and we did observe water stains on the trees across the channel (See Exhibit-photo), debris lines at 43, 57(elevation 681.34) and 70 feet (elevation 682.19) and most notable was that moss growth was very predominant, including up tree trunks
Biological indicators were one tree with exposed, and a pipe elbow root that Bob Rolle asked that we note (top of exposed root elevation 681.76), and trees with multiple trunks (See Exhibit C.06).

Transect 2-north of the landing (See Exhibit C.10)
Soil boring at 1 and 19 from 0. Hydric soils present from 0-19. Base of slope was at 19 (elevation 680.88) and start of bedrock. (See Exhibit C.11)
Vegetation was all hydric from 0-30 feet (See Exhibit C.12) Site had hillside seeps so hydric vegetation not used.
Physical indicators were an erosion line at 19 feet (top of erosion line elevation 682.32, bottom 680.88), exposed tree roots at 19 feet (top of roots elevation 682.30-bottom elevation 680.34), water stain on double trunk maple tree just north of transect line (682.25 and 682.26) and moss growth up tree trunks (top of moss elevation 682.07).
Biological indicators were some trees with multiple trunks and a few trees with buttressed roots (See Exhibit C.13).

Lake Mallalieu Dam/Union Pacific RR property
Transect 1-Lake Mallalieu Dam concrete structure and embankments (See Exhibit C.15)
Lake Mallalieu dam was reconstructed in late 1934 and in 1935. The riprap on the embankments was placed in 1998. The dam structure itself is an artificial physical alteration as are the adjacent earthen

embankments covered with limestone riprap. Consequently, no borings were dug to identify soils and no vegetation was inventoried. The principal indicator at this transect is the water stain on the 70-year old dam abutments. We observed three distinct stains on the abutment: a gray band at the top, a bleached area in the middle and a gray area at the bottom. Using the guidebook, the OHWM is located at the line between the lighter color and the top dark band. This location on the dam abutment was found to be elevation 681.5 (See Exhibit C.16).

Transect 2-Union Pacific Railroad property (See Exhibit C.17)
Soil borings at 6-, 25-, 33, and 80-feet from 0. Hydric soils were present from 0-80 feet, elevation 682.01). At 80 feet soils changed from wet or moist to dry without mottles (See Exhibit C.18)
Vegetation was hydric from 0-80 (elevation 682.01). At 80 feet vegetation changed from hydric to invasive, exotic species: poison ivy, buckthorn, honeysuckle (See Exhibit C.19).
Physical indicators from 0-80 (elevation 682.01) were exposed tree roots (all trees), drift lines 30 (elevation 677.92 – 679.41) and 33 feet from 0, debris caught on vegetation from flowing water, water stain on 3-trunk cottonwood with exposed roots elevation 682.73) and an erosion line at 85 feet (elevation 683.61 at the bottom) (See Exhibit C.01)
Biological indicators from 0-80 (elevation 682.01) were shallow root systems of trees, multiple trunks of trees (base of 3-trunk cottonwood without exposed roots elevation 682.73), an adventitious root, buttressed roots.
(See Exhibit C.01)

Bob Rolle property
Transect 1---600 feet from north end of property (See Exhibit C.20)
No soil borings were taken due to presence of naturally-occurring rock riprap and presence of bedrock
Vegetation was hydric from 0-33 feet inland (elevation 686.3) with the exception of roses (elevation 683.18) (See Exhibit C.21).
Physical indicators from were bleaching on lower portion of some tree trunks and possible water stain on natural riprap from 0-approximately 30 feet. The staining was very difficult to see that day as it was very cloudy with periods of light rain, so we could not survey them. We did take photos of the riprap and those photos show three distinct stains. Trees had exposed roots.
Biological indicators from 0-33 (elevation 686.3) feet inland were one tree with pipe elbow roots was noted at water level that day per Bob Rolle; tree had shallow root systems, and we found 2 trees with buttressed roots.
(See Exhibit C.22)

Transect 2---1150 feet from north end of property (See Exhibit C.23)
No soil borings were taken due to presence of naturally-occurring rock riprap and presence of bedrock
Vegetation was hydric from 0-26 feet inland (elevation 683.61) (See Exhibit C.24) We also noted a cedar tree @ 26 feet at the top of what we thought might be a light stain. Francis Ogden asked to have this cedar tree noted and asked us to learn what type of cedar it is. It is an eastern red cedar that has exposed, shallow roots and the photo shows that it is located at the top of the light water stain.
Physical indicators from 0-26 (elevation 683.61) trees had exposed roots from 0-19 feet, debris line at 14-16 feet from 0. Again, we photographed the natural riprap for water stains, but could not survey because of the weather.
Biological indicators from 0-26 feet (elevation 683.61) trees had shallow root systems. Bob Rolle asked that we note two trees at the water line that day that had pipe elbow roots.
(See Exhibit C.25)

Kinnickinnic Park
Transect 1----Slough area from main river channel to area next to park picnic area (See Exhibit C.26)
Borings showed hydric soils from 0-300 feet inland (See Exhibit C.27)
Vegetation was all hydric from 0-224 feet inland (elevation 682.8) (See Exhibit C.28)
Physical indicators from 0-older trees had exposed roots, and water stain on tree trunks. We did see debris lines, but they were interrupted. We also saw washmarks from higher water levels. The debris lines and washmarks were not surveyed as these indicators did not have enough permanence because the sandy areas of this artificial delta are heavily used by the public.
Biological indicators from 0-175(at SE edge of former Corps dredge material disposal area) trees had shallow root systems and multiple trunks. We also observed adventitious roots on the willows.
(See Exhibit C.29)

Transect 2---pier area
No soil borings vegetation inventories taken as the water stains on rocks at landing and erosion line north of the pier were the focal point of this transect.
Physical indicator is the water stain on the artificial riprap at the boat landing and on the natural riprap north of the pier (elevation 682.20 top of upper dark stain, elevation 681.84 bottom of upper dark stain).
Biological indicator is vegetation growth immediately above natural riprap north of pier (elevation 682.18)
(See Exhibit C.30)

Prescott
Transect 1---northern portion of city-owned property-Naberson is non-riparian landowner across on Lake Street (See Exhibit C.31)
Borings showed hydric soils from 0-30 feet (elevation 681.30 bottom of erosion line at base of slope) (See Exhibit C.32)
Vegetation was hydric from 0-30 feet (elevation 681.30), at 20 feet vegetation exotic species began to mix with hydric species (See Exhibit C.33)
Physical indicators from 0-32 were, exposed tree roots (elevation 682.41 top of exposed roots were above erosion line), a drift line at 10 feet from 0, a small erosion line at 18 feet from 0, a larger, more pronounced erosion line at 30 feet from 0, possible water stain on rocks north of transect, took photos, but could not survey because of weather that day—stain surveyed on July 13, 2005 (elevation 682 top of light stain)
Biological indicators from 0-32 feet were shallow root systems, trees with multiple trunks, trees with adventitious roots (exposed) at 30 feet at erosion line (elevation 681.30).
(See Exhibit C.34)

Transect 2---at south boundary line of city property (See Exhibit C.35)
Soil photos/chart (See Exhibit C.36)
Hydric vegetation from 0-29 feet (elevation 681.16 bottom of erosion line)(See Exhibit C.37)
Physical indicators 0-29 (elevation 681.16) feet were trees with exposed roots (surveyed base of tree at 25 feet-elevation 682.86), a debris line at 20 feet, and an erosion line at 29 feet at the base of the slope.
Biological indicators 0-29 feet (elevation 681.16) were trees with shallow roots systems, adventitious roots, and multiple trunks. (See Exhibit C.38)
(Note: the retaining wall downstream of this transect also had a water stain. However, the stain was only on the downstream half of the wall, not the upstream half. Given that the water is present on the entire length of the wall, but the stain was only on half; we did not survey the stain.)

Field Work Results

When we correlated the field data and the survey data, it showed that most of the physical and biological indicators began at the water line and ended in the general range of elevations 681 and 682. Considering the public input received at the public meetings that one (1) foot of elevation (vertical measurement) can make a difference of several lineal feet (horizontal measurement); we reviewed the indicators to find those that Chapter 40 considered excellent and those that were the most permanent and predominant. We were able to narrow our indicator range using the water stains on the barge dolphins-these were placed in conjunction with the King Power Plant in the 1960s, Mallalieu Dam abutments constructed 1935, Stillwater bridge earthen causeway in the 1930s and Kinnickinnic riprap placed in 1991. Given the age of these structures they are some of the most permanent and predominant indicators we found. Plus, the location of these structures also gave us almost the entire range of our study area. Again using the guidance in Chapter 40 to find the OHWM using the water stain, we found:

Stillwater bridge causeway, sloping rock, top of dark stain 682.20
Barge dolphins-top of light stain, bottom of upper dark stain is elevation 681.55
Mallalieu Dam-top of light stain, bottom of upper dark stain is elevation 681.51
Kinnickinnic riprap-top of upper dark stain is elevation 682.20, bottom of upper dark stain is 681.84

August 31, 2005 meeting (See Exhibit D.01)

Additional Information Received To Date

OHWM Determination conducted by Barr Engineering on behalf of and submitted by Mr. William Tilton as part of a county permit application (See Exhibit E.01). The Barr OHWM references portions of Ch. 40 of the Waterway and Wetland guidebook as a reference for this determination and includes a survey map with existing vegetation identified and photos. A review of the Barr OHWM determination shows that the predominant type of vegetation below elevation 682 is hydric and trees have multiple trunks as noted on the survey map. The map indicates the oak at this location is the exception, which is not unheard of in nature. Plants typically categorized as terrestrial may grow and remain healthy in a hydric environment due to lack of competition from other terrestrial plants according to DNR forestry staff. The determination did not show the "break" from predominatly hydric vegetation to terrestrial as defined in Diana, "...the destruction of terrestrial vegetation." This determination also references the portion of the guidebook concerning mosse which states, "...mosses which are located on exposed rocks, stumps, tree roots, etc. are usually considered terrestrial and the lowermost elevation of these mosses is a good indicator of the OHWM." What the determination does not include is the remainder of the guidebook text about mosses which states, "...Some water mosses (e.g. Drepanocladus) form long strings and are aquatic and should not be used as indicators of the OHWM." The determination did not include any moss identification information. As requested by Mr. Tilton, Department staff have provided additional information about types of mosses and their use as indicators of the OHWM (See Exhibit E.02). The determination does not include soil identification and sandy soils can be hydric as identified in the DNR OHWM transects. The water stain was not documented because it was described as "faint." The DNR OHWM evaluation documented by photo the water stains at the Rolle property, even though on the field day the stains were faint due to weather conditions. The DNR photos, however, show the stains very clearly. The determination did not include any information about permanent and predominant OHWM indicators. This determination did not appear to address the guidance in Chapter 40 of the guidebook that

No!

Moss info never given to me. Promised ID never done by DNR. or it was done & has not been provided

states, "...that the ordinary high water mark is not at the edge of open water adjacent to aquatic vegetation but on the bank or shore where terrestrial vegetation either begins or is destroyed."

Based on the review of the Barr OHWM determination, Department staff conclude that setting 676-677 as the OHWM at the Tilton property is incorrect and should not be used.

The Department also received an OHWM elevation of 677 as set by the city of Hudson. Field data to support 677 was requested, but not received. The city of Hudson did send an email explaining that "WisDNR" had advised Hudson to use 676 as the OHWM. Hudson used the criteria in NR 118 to establish the OHWM. Hudson established 677 at the Nor Lake property, and that Hudson determines the OHWM on a case-by-case basis. Department staff requested the identify of the "WisDNR" who used 676 as OHWM, what criteria in NR 118 was used to locate an OHWM, and requested the field data a second time. As the Department requests for field data, NR 118 criteria, and "WisDNR" staff have not been received. Department staff conclude that setting 676 or 677 as the OHWM in Hudson is incorrect and should not be used (See Exhibit E.03).

The Department has received correspondence identifying what the OHWM elevation should be. Included is the correspondence received by E. Post to date. (See Exhibit E.04).

Recommendations

Based on the facts that:

- water levels in the St Croix have been documented to be at generally 681 for 30 days over a 20-year record.
- the incompleteness of the OHWM determinations of 677 by Hudson and 676-677 by Barr Engineering renders these proposed OHWM insupportable
- the presence, the variety of indicator types, and the consistency of the various indicator types of biological and physical indicators in this reach of the river; beginning at the water, even at low control pool of elevation 675, up to a general range of elevation 681 to 682,
- the permanence and predominance of the water stains found spanning almost the entire stretch of river known as the "state zone," and
- the guidance in Chapter 40 of the Waterway and Wetland Handbook which states, "...The Court then added the wording 'on the bank or shore' and the word 'terrestrial' to the Lawrence definition to emphasize that the ordinary high water mark is not at the edge of open water adjacent to aquatic vegetation but on the bank or shore where terrestrial vegetation either begins or is destroyed:"

Department staff recommend that the OHWM for the St Croix River, aka, Lake St Croix, be found at elevation 681.5, mean sea level, 1912 Adjustment, Corps datum in the lower 25 miles of the river in the "state zone."

Attachments -List of Exhibits
-List of Reference Materials

Field Work References

Munsell Soil Color Charts, 1998
Field Indicators of Hydric Soils in the U. S., Version 4, USDA/NRCS/Wetlands Science Institute and Soils Division, March 1998
Wetland Plants and Plant Communities of MN & WI, Second Edition, Eggers & Reed, 1997
Forest Communities and Habitat Types of Central/Southern/Northern Wisconsin, Kotar & Burger, 1996
Wildflowers and Weeds, Courtenay & Zimmerman, 1972

References

Surface Water Resources of St Croix County, Wisconsin Conservation Department, 1961
Surface Water Resources of Pierce County, Department of Natural Resources, 1971
Soil Survey of Pierce County, USDA/SCS, May 1968
Soil Survey of St Croix County, USDA/SCS, July 1978
The St Croix River Water Quality Management Plan, DNR, 1994
Lower St Croix National Scenic Riverway, River Stewardship Guide, MN/WI Boundary Area Commission, December 1994
The State of the St Croix Basin, DNR, March 2002
Cooperative Management Plan-Lower St Croix National Scenic Riverway, U.S. Dept of Interior/National Park Service-MN DNR-WI DNR, January 2002

A01

State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Jim Doyle, Governor
Scott Hassett, Secretary
Scott Humrickhouse, Regional Director

West Central Region Headquarters
1300 W. Clairemont Avenue
P.O. Box 4001
Eau Claire, Wisconsin 54702-4001
Telephone 715-839-3700
FAX 715-839-6076
TTY Access via relay - 711

August 18, 2004

Attached List:

Subject: Setting the Ordinary High Water Mark for Lake St. Croix.

Dear Partners in Resource Protection.:

As many of you are aware, the Natural Resources Board recently passed the revisions to Wisconsin Administrative Code NR 118. This is the code that acts as a regulatory guide to protect shoreland along the Lower St. Croix river. As part of the revision process, and to assist municipalities with administering this part of their ordinances, the Department agreed to proceed with developing an Ordinary High Water Mark (OHWM) for the Lower St. Croix River.

This letter formally invites you to participate in that process. We have worked cooperatively with you in the past to make sound regulatory decisions that benefit the resource and the public that enjoys that resource and look forward to your involvement in this process. Our tentative plan for Declaring the OHWM is:

August-September 2004:	conduct scientific field work with outside partners (2 locations)
September 2004:	attend the LSC Partnership Team Meeting to invite their involvement
October 2004:	attend LSC Planning Commission meeting to invite their involvement
October 2004:	publish news releases to invite public involvement and identify meeting dates
Dec – Feb:	hold public meetings along the LSC river.
May – June 2005;	conduct more field work with outside partner involvement (~3 new locations)
June-July2005:	develop field report identifying OHWM findings, share with partners, compare to historical elevations and data gathered from the public.
July – August 2005:	conduct declaratory public hearing

As I have identified, we have scheduled two field data collection days for this late summer/fall and would invite your involvement in collecting the necessary vegetation, soils and topographic data to aid in the OHWM determination. The first field data collection day is scheduled for August 31, at the Lake Mallalieu Dam, beginning at 10:00 am. The second field data collection date for this calendar year is September 7, at Kinnickinnic State Park, beginning at 10 am. For more information on the field days, please contact Eunice Post at our Baldwin Office 715-684-2914, ext. 119 or eunice.post@dnr.state.wi.us .

The Department will plan to go into more detail with you concerning the Declaratory Ruling process during these field data collection days and at subsequent meetings. If you are unable to attend 8/31 or 9/7 we understand and will work to keep you informed of the process and where we are at on a regular basis.

Gregg Breese will be the project coordinator for the Department. If you have questions or comments at anytime during this process, please don't hesitate to contact him. Gregg can be reached by email at gregory.breese@dnr.state.wi.us . Our goal throughout this process is to invite involvement by anyone

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interested, share all the information we have, use the best available science to declare an accurate OHWM, and put in place the necessary tools that allow municipalities to benefit from the information.

The Department looks forward to working with you on this project. I ran across this quote and felt it fit into the project we're about to embark on: "Tug on anything at all and you'll find it connected to everything else in the universe." John Muir

Sincerely,

Daniel G. Baumann, P.E.
Water Leader
West Central Region

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1 of 3

UPON PETITION TO THE
DEPARTMENT OF NATURAL RESOURCES

In the matter of the applicability of ss. 281.11, and 30.10(4)(b), Stats., s. NR 320.03(12), Wis. Adm. Code, the Wisconsin Constitution, and Wisconsin common law in relation to determining the elevation of the ordinary high water mark (OHWM) in and along the portion known as the "state zone" of the St. Croix River, a navigable water of the state of Wisconsin.

The Wisconsin Constitution, statutes, rules, and common law provide as follows:

Pursuant to s. 281.11, Stats., the Department of Natural Resources shall serve as the central unit of state government to protect, maintain and improve the quality and management of the waters of the state, ground and surface, public and private. Pursuant to the duty of the Department to protect, maintain and improve the management of the waters of the state, s. 30.10(4) (b), Stats., provides that the boundaries of lands adjoining waters and the rights of the state and of individuals with respect to all such lands and water shall be determined in conformity to the common law so far as applicable.

Pursuant to Wisconsin common law and the Wisconsin constitution, the state exercises direct authority over navigable waters of the state through the public trust doctrine, which provides that the state holds all natural navigable waters in trust for the public. Also pursuant to Wisconsin common law, the scope of the public trust doctrine extends landward to the ordinary high water mark (OHWM) of all natural navigable waterbodies. *State v. Trudeau*, 139 Wis. 2d 91 (1987)

Wisconsin common law and s. NR 320.03(12), Wis. Adm. Code, define the OHWM as the point on the bank or shore up to which the presences and action of water is so continuous as to leave a distinct mark either by erosions, destruction of terrestrial vegetation or other easily recognizable characteristics. *Diana Shooting Club v. Husting*, 156 Wis. 261, 272 (1914)

Pursuant to s. 227.41, Stats., any agency may, on petition by any interested person, issue a declaratory ruling with respect to the applicability to any person, property or state of facts of any rule or statute enforced by it. Full opportunity for hearing shall be afforded to interested parties, and the resulting declaratory ruling shall bind the agency and all parties to the proceedings on the statement of facts alleged, unless it is altered or set aside by a court. A ruling shall be subject to review in the circuit court in the manner provided for the review of administrative decisions.

As the state agency charged with determining the scope of the public trust doctrine in waters of the state, the Department of Natural Resources is an interested person who may petition for a declaratory ruling with respect to the determination of the elevation of the OHWM in and along the portion known as the "state zone" of the St. Croix River.

The grounds for this petition are to determine the applicability of the above statutes, rule, and constitutional and common law in determining state jurisdiction, the scope of the public trust doctrine, and the elevation of the OHWM in and along the portion known as the "state zone" of the St. Croix River, because of the following state of facts:

The Department received public comments questioning the accuracy of the elevations of the existing OHWMs in and along the St Croix River, and responded by offering to re-evaluate the elevations of the OHWM in and along the portion of the St. Croix River commonly referred to as the "state zone."

The portion of the St. Croix River known as the "state zone" begins at Prescott, Wisconsin and runs north to end approximately at the Arcola sandbar which is slightly more than three miles north of Houlton, Wisconsin.

Currently, the elevations of the OHWM in and along the "state zone" for the St Croix National Wild and Scenic River were determined and are established as:

687 mean sea level, 1912 Corps adjusted datum, Section 9, T26N, R20W, in the City of Prescott, Pierce County, Wisconsin

682 mean sea level, 1912 Corps adjusted datum, Marzoff property, Section 12, T28N, R19W, Town of Troy, St Croix County, Wisconsin

685.75 mean sea level, 1912 Corps adjusted datum, Union Pacific Railroad property, Section 24, T29N, R20W, City of Hudson, St Croix County, Wisconsin

The reasons for the requested ruling are:

The Department has received public comments questioning the accuracy of the elevations of the existing OHWMs and asking that the elevation of ordinary high water mark on the St Croix River be reduced from the current established elevations to 675 mean sea level, 1912 Corps adjusted datum.

The following are the names and addresses of all other persons other than the petitioner upon whom it is sought to make the ruling binding:

All persons owning land that abuts the "state zone" portion of the St. Croix River as described above and their successors in interest.

I hereby swear or affirm that the statements made in this petition are true, complete, and correct.

Dated August 31, 2004

(signature)

Eunice Post
Department of Natural Resources
Baldwin Service Center
890 Spruce Street
Baldwin WI 54002

State of Wisconsin
County of Eau Claire
Signed and sworn to (or affirmed) before me on 8-19, 2005 by Eunice Post.

Mary M Tradette
Signature of notarial officer
Title: Notary Public
My commission expires: 1-11-09 (Seal, if any)

Why Notarized one year later?

A.03

NEW
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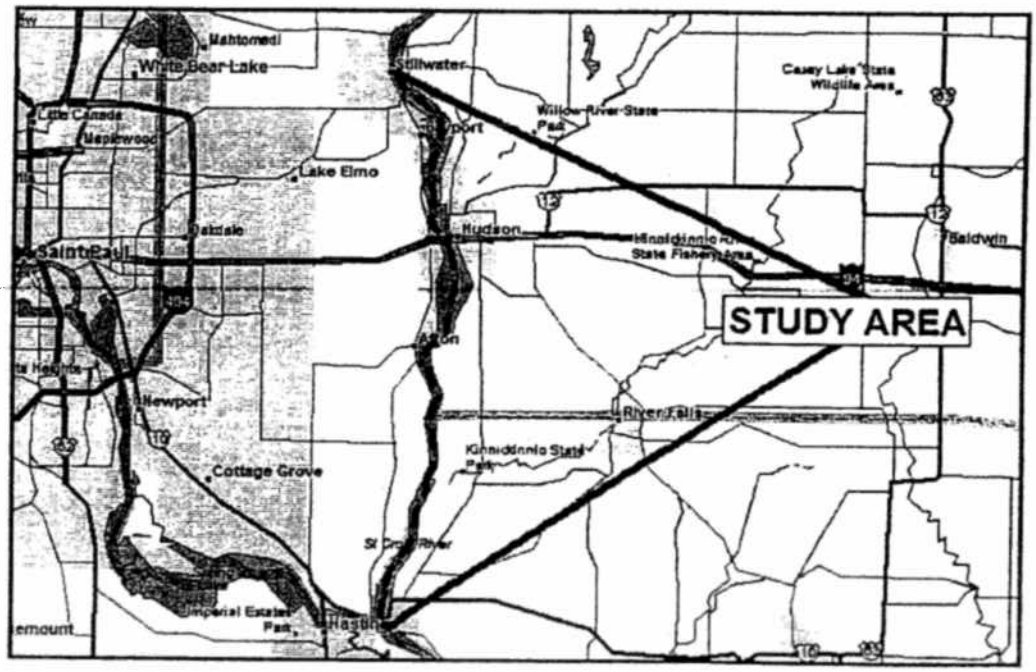
www.wisconsin.gov

FOR RELEASE: 01/12/0512/22/04
CONTACT: Robert Baczynski, Lower Chippewa Team Leader, Baldwin, 715/684-2914 ext. 115

SUBJECT: **Meeting to Outline Ways to Establish Lake St. Croix Ordinary High Water Mark**

EAU CLAIRE, Wis. – Methods the Department of Natural Resources is using to establish an ordinary high water mark for Lake St. Croix on the St. Croix River will be outlined during a series of meetings in Prescott and Hudson in January, 2005.

The goal of these sessions is to help people understand the processes being used to establish the ordinary high water marks. Sessions are scheduled from 6 to 8 p.m. Jan. 12 at the Prescott Emergency Medical Services Building, 1603 Pine St., Prescott as well as from noon to 2 p.m. Jan. 13 and from 6 to 8 p.m. Jan 13 at the St. Croix County Government Center, 1101 Carmichael Road, Hudson.



Bob Baczynski, Department of Natural Resources Lower Chippewa Basin Team leader said staff will explain the principles and laws defining an ordinary high water mark (OWHM), what needs to be done to establish an OHWM, and what OHWMs have been established for Lake St Croix to date

The following counties are in the West Central Region: Adams, Buffalo, Chippewa, Clark, Dunn, Eau Claire, Jackson, Juneau, La Crosse, Marathon, Monroe, Pepin, Pierce, Portage, St. Croix, Trempealeau, Vernon, Wood.

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The public affairs manager for the DNR West Central Region is: Dave Weitz - (715) 839-3715.

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A.04

NEWS
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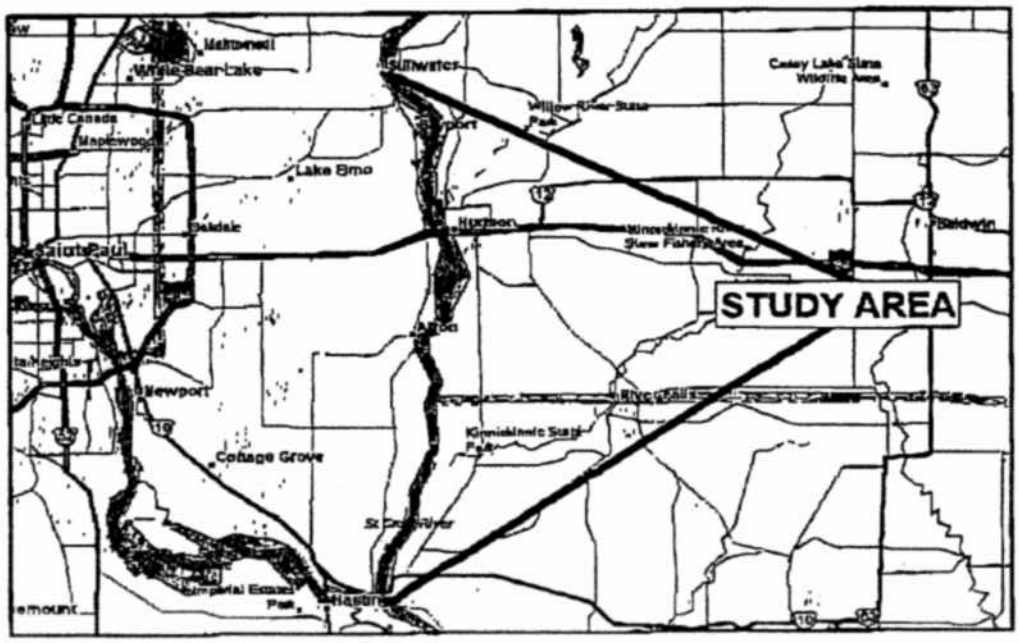
www.wisconsin.gov

FOR RELEASE: July 7, 2005
CONTACT: Robert Baczynski, Lower Chippewa Team Leader, Baldwin, 715/684-2914 ext. 115

SUBJECT: Meeting to Present Lake St. Croix Ordinary High Water Mark Findings

EAU CLAIRE, Wis. – The Wisconsin Department of Natural Resources has completed the field work phase of an effort to establish a Lake St. Croix Ordinary High Water mark and will present findings during meetings in Prescott and Hudson in month. The goal of these sessions is to help people understand the information collected at each of five locations sampled.

no findings presented



A finding for the Ordinary High Water Mark is often important to shoreland owners who want to do work on their property. The location of an Ordinary High Water Mark can influence which regulations a property owner must follow before any work in the shoreland zone is started.

Sessions are scheduled from 6 to 8 p.m. July 27 at the St. Croix County Government Center, 1101 Carmichael Road, Hudson as well as 6 to 8p.m. July 28 at the Prescott Municipal Building, Council Chambers, 800 Borner St., Prescott.

The following counties are in the West Central Region: Adams, Buffalo, Chippewa, Clark, Dunn, Eau Claire, Jackson, Juneau, La Crosse, Marathon, Monroe, Pepin, Pierce, Portage, St. Croix, Trempealeau, Vernon, Wood.

The public affairs manager for the DNR West Central Region is: Dave Weitz - (715) 839-3715.

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A.05

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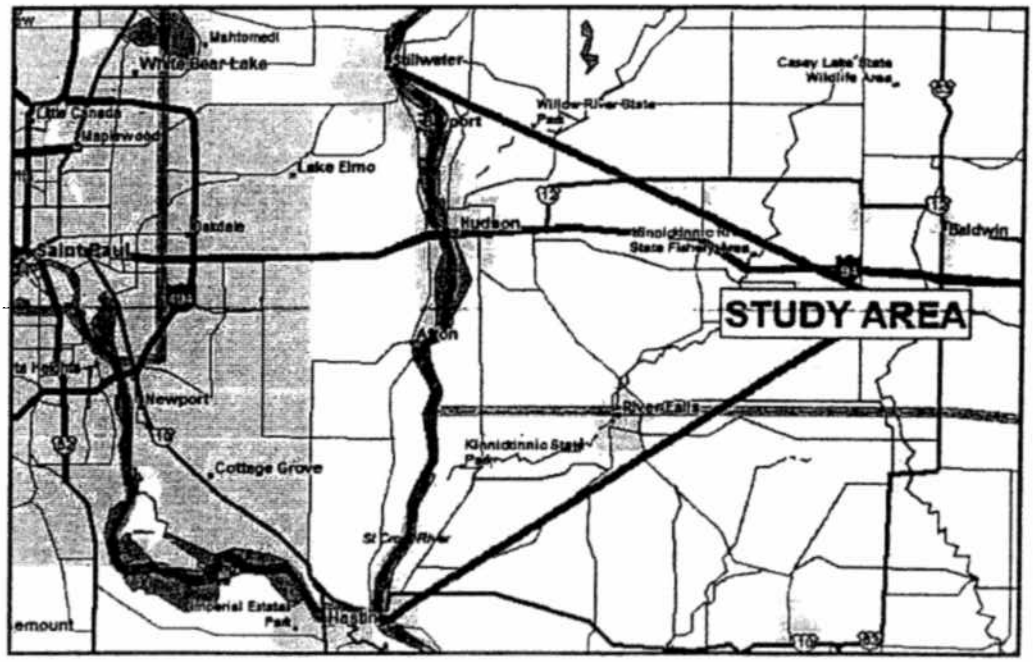
www.wisconsin.gov

FOR RELEASE: 08/25/2005
CONTACT: Robert Baczynski, Lower Chippewa Team Leader, Baldwin, 715/684-2914 ext. 115

SUBJECT: Meeting to Present Lake St. Croix Ordinary High Water Mark Findings

EAU CLAIRE, Wis. – SUBJECT: Hearing to Present Lake St. Croix Ordinary High Water Mark Findings

EAU CLAIRE, Wis. – The Wisconsin Department of Natural Resources will present results of its field work and analysis of water level records and other data, leading to a finding of the ordinary high water mark for Lake St. Croix at an August 31 hearing in Hudson. The main purpose of the hearing is to gather any additional records or information that may have a bearing on the final finding.



While flood scars and other indicators of surface water are found at many elevations because of flooding and other water level changes on Lake St. Croix, DNR field work finds the *ordinary high water mark* is at 681.5 feet (1912 adjusted COE datum) for approximately 25 miles of river. At this elevation, the physical and biological marks found by DNR are the most permanent and predominant. The ordinary high water mark is the point where public water begins and the starting point for measuring setbacks for homes and other structures from the river.

The hearing is scheduled at 6 p.m. August 31 at the St. Croix County Government Center, 1101 Carmichael Road, Hudson where the department will formally present this finding to an examiner and where the public will have opportunity to offer additional evidence.

For further information, contact Bob Baczynski at the Baldwin service center, 715-684-2914, ext. 115.

The following counties are in the West Central Region: Adams, Buffalo, Chippewa, Clark, Dunn, Eau Claire, Jackson, Juneau, La Crosse, Marathon, Monroe, Pepin, Pierce, Portage, St. Croix, Trempealeau, Vernon, Wood.

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The public affairs manager for the DNR West Central Region is: Dave Weitz - (715) 839-3715.

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ONLY ADD ORDINARY HIGH STUDY /

Bob Baczynski, Department of Natural Resources Lower Chippewa Basin Team leader said staff will present the findings from field work conducted last fall and this spring. In addition, staff will compare this information to historical elevations as well as data gathered from citizens. People can bring any additional information that they feel will aid in the Ordinary High Water Mark (OWHM) process for Lake St Croix.

"Department staff will be present to explain the process in detail, how the determination could apply to Lake St Croix and shoreland owners, as well as to answer any questions the public may have regarding the process," he said. Visitors to the sessions can meet the individuals who conducted the field work and find out when various aspects of the process will happen.

For further information, contact Bob Baczynski in Baldwin, at 715-684-2914, ext. 115.

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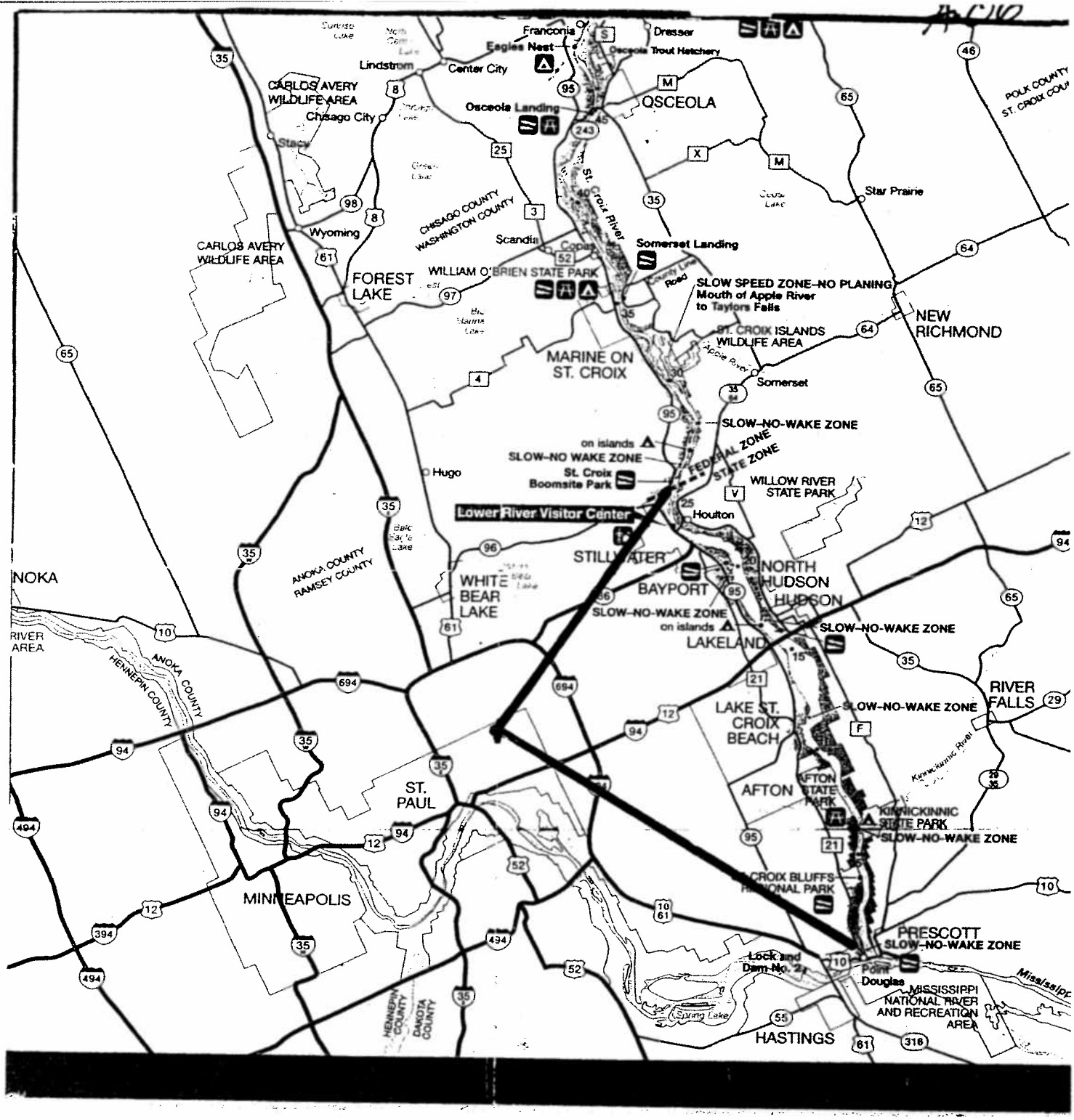
Franconia
Eagles Nest
Dresser
Osceola Trout Hatchery
Lindstrom
Center City
CARLOS AVERY WILDLIFE AREA
Chisago City
Osceola Landing
OSCEOLA
POLK COUNTY ST. CROIX COU
Stacy
Star Prairie
CHISAGO COUNTY WASHINGTON COUNTY
Wyoming
Scandia
Somerset Landing
CARLOS AVERY WILDLIFE AREA
FOREST LAKE
WILLIAM O'BRIEN STATE PARK
SLOW SPEED ZONE–NO PLANING
Mouth of Apple River
to Taylors Falls
NEW RICHMOND
ST. CROIX ISLANDS WILDLIFE AREA
MARINE ON ST. CROIX
Somerset
SLOW–NO–WAKE ZONE
on islands
SLOW–NO WAKE ZONE
FEDERAL ZONE
STATE ZONE
Hugo
St. Croix Boomsite Park
WILLOW RIVER STATE PARK
Lower River Visitor Center
Houlton
STILLWATER
NORTH HUDSON
WHITE BEAR LAKE
BAYPORT
HUDSON
SLOW–NO–WAKE ZONE
on islands
SLOW–NO–WAKE ZONE
LAKELAND
ANOKA COUNTY RAMSEY COUNTY
NOKA
RIVER AREA
HENNEPIN COUNTY
ANOKA COUNTY
LAKE ST. CROIX BEACH
SLOW–NO–WAKE ZONE
RIVER FALLS
ST. PAUL
AFTON
AFTON STATE PARK
KINNICKINNIC STATE PARK
SLOW–NO–WAKE ZONE
CROIX BLUFFS NATIONAL PARK
MINNEAPOLIS
PRESCOTT
SLOW–NO–WAKE ZONE
Lock and Dam No. 2
Point Douglas
MISSISSIPPI NATIONAL RIVER AND RECREATION AREA
Spring Lake
HASTINGS
HENNEPIN COUNTY
DAKOTA COUNTY

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Department of Natural Resources

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Wisconsin Lakes Directory - Pierce Co. (Alphabetic by County)

Select the letter corresponding to the **lake name**:

A B C D E F G H I J K L M N O P Q R S T U V W X Y Z

Named Lakes by County

Counties

Lake Name	County	Acres	Max.Depth ft	DNR Region	WBIC	Township	Range	Section	qq_section	q_sect
DEAD SLOUGH LAKE (Lower, Dead)	Pierce	300		WC	732200	T24N	R17W	07	NE	SE
GANTENBEIN LAKE	Pierce	88	5	WC	733200	T25N	R18W	30	SE	SE
GEORGE LAKE (Spring Valley)	Pierce	126	29	WC	2059800	T27N	R15W	06	NE	NE
GOOSE LAKE	Pierce	104		WC	732300	T24N	R17W	07	SW	NE
KINNICKINNIC POND, LOWER	Pierce	15	13	WC	2603000	T27N	R19W	01	SW	SW
KINNICKINNIC POND, UPPER	Pierce	18	9	WC	2603700	T27N	R19W	01	NE	SW
LAKE PEPIN*	Pierce/Pepin	19649		WC	731800	T22N	R14W	05	NE	SW
LAKE PEPIN - DEAD SLOUGH	Pierce			WC	732400	T24N	R17W	08	NE	SW
LAKE ST CROIX	Pierce	4668	60	WC	2601500	T26N	R20W	09	SE	SE
LILY POND	Pierce			WC	732000	T24N	R17W	16	SW	NW
LOWER KINNICKINNIC POND	Pierce	15	13	WC	2603000	T27N	R19W	01	SW	SW
MISS RIVER - POOL NO.3	Pierce			WC	733505	T25N	R18W	31	SE	NW
MISS RIVER - POOL NO.4	Pierce			WC	730405	T21N	R13W	02	NW	SE
MISS RIVER - UN SLOUGH	Pierce	300		WC	733100	T25N	R18W	31	NW	NE

000131

MUD LAKE (Upper, Upper Mud)	Pierce	400		WC	732600	T24N	R18W	11	SE	SW
NUGGET LAKE	Pierce	116	50	WC	2053400	T25N	R15W	09	NW	NE
PEPIN, LAKE*	Pierce/Pepin	19649		WC	731800	T22N	R14W	05	NE	SW
PEPIN, LAKE - DEAD SLOUGH	Pierce			WC	732400	T24N	R17W	08	NE	SW
ST CROIX, LAKE	Pierce	4668	60	WC	2601500	T26N	R20W	09	SE	SE
UN LAKE	Pierce	75		WC	732375	T24N	R18W	11	NE	NE
UN LAKE	Pierce	1	4	WC	1888600	T24N	R17W	08	SE	NE
UN LAKE	Pierce	1	1	WC	1888700	T24N	R17W	09	SW	NW
UN LAKE	Pierce	4	3	WC	1888800	T24N	R18W	03	SW	NW
UN LAKE	Pierce	26	5	WC	1888900	T24N	R18W	03	SW	SE
UN LAKE	Pierce	2	5	WC	1889000	T24N	R18W	12	NW	NE
UN LAKE	Pierce	6	8	WC	2446300	T24N	R17W	09	SW	NW
UN LAKE	Pierce	14	5	WC	2446800	T24N	R18W	04	NE	NE
UN LAKE	Pierce	7	2	WC	1889800	T25N	R18W	33	SW	NW
UN LAKE	Pierce	22	2	WC	720950	T25N	R18W	30	NE	NE
UN LAKE	Pierce	40	5	WC		T25N	R18W	30		
UN LAKE	Pierce	14	5	WC	733000	T25N	R18W	31	NE	NW
UN LAKE	Pierce	2	2	WC	1889400	T25N	R18W	19	SW	SE
UN LAKE	Pierce	6	2	WC	1889500	T25N	R18W	30	NE	SE
UN LAKE	Pierce	6	2	WC	1889600	T25N	R18W	30	SE	SE
UN LAKE	Pierce	4	1	WC	1889700	T25N	R18W	33	SE	NW
UN LAKE	Pierce	1	5	WC	2446900	T25N	R18W	33	SW	SE
UN LAKE	Pierce	10	6	WC	1890300	T26N	R19W	32	NW	NE
UN LAKE	Pierce	1	5	WC	1890400	T26N	R19W	33	NW	SW
UN LAKE	Pierce	1	7	WC	1890500	T26N	R20W	15	SE	NE
UN LAKE	Pierce			WC	2446100	T26N	R17W	07	SE	NE
UN LAKE	Pierce	1	3	WC	2503600	T27N	R19W	01	SE	SE
UN SPRING	Pierce	6	4	WC	2043200	T24N	R17W	08	NE	SE
UN SPRING	Pierce	1	5	WC	2043300	T24N	R18W	12	NW	NW
UN SPRING	Pierce			WC	2445400	T25N	R17W	22	SW	SW
UPPER KINNICKINNIC POND	Pierce	18	9	WC	2603700	T27N	R19W	01	NE	SW

Key:

NE = Northeast, NO = Northern, SC = South Central, SE = Southeast, and WC = West Central DNR Region
q = Quarter, qq = Quarter of a Quarter of a square mile Section
(*) = Lake in two counties and counted in another County, and
UN = Un-Named such as un-named lake, spring, pond, or etc.

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WBIC = DNR assigned 7 digit number to each waterbody in Wisconsin.

Produced By: Wisconsin DNR, Bureau of Fisheries Management and Habitat Protection.
For comments corrections or updates contact: James Vennie Lake Data Coordinator 608-266-2212

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Department of Natural Resources

Wisconsin Lakes Directory - St. Croix Co. (Alphabetic by County)

Select the letter corresponding to the **lake name**:

A B C D E F G H I J K L M N O P Q R S T U V W X Y Z

Named Lakes by County

Counties

Lake Name	County	Acres	Max.Depth ft	DNR Region	WBIC	Township	Range	Section	qq_section	q_sectio
UN LAKE (Amschler)	St. Croix	13		WC	2597300	T31N	R17W	17	SW	NW
ANDERSON SPRINGS	St. Croix	2	2	WC	2608400	T30N	R18W	17	NE	NE
APPLE FALLS FLOWAGE	St. Croix	39	40	WC	2614200	T31N	R19W	22	NW	SW
BASS LAKE	St. Croix	417	35	WC	2450500	T30N	R19W	23	NW	SE
BASS LAKE	St. Croix	9	10	WC	2450600	T31N	R19W	10	SE	NW
UN LAKE (Bass)	St. Croix	6	8	WC	2597500	T31N	R19W	10	SE	NW
BASS LAKE, NORTH	St. Croix	33		WC	2485500	T30N	R19W	11	NE	SE
BIERBRAUER LAKE	St. Croix	55		WC	2453200	T31N	R17W	04	SE	NW
BRIGHT LAKE	St. Croix	6		WC	2455100	T30N	R19W	21	NW	SW
BRUSHY MOUND LAKE	St. Croix	13	5	WC	2455400	T30N	R18W	12	NW	SE
BURKHARDT MILL POND	St. Croix	100	38	WC	2607600	T29N	R19W	10	NE	NW
BUSHNELL LAKE	St. Croix	17	12	WC	2606300	T29N	R17W	03	SE	SE
BUSHY LAKE	St. Croix	28	10	WC	2072600	T30N	R15W	05	SW	NE
BUSHY LAKE, LITTLE	St. Croix	6	4	WC	2072400	T30N	R15W	04	NW	SW
CASEY LAKE	St. Croix	28	12	WC	2606700	T30N	R17W	35	SW	NW
CEDAR LAKE	St. Croix	1107	28	WC	2615100	T31N	R18W	02	SW	NE
UN LAKE (Demulling Pond)	St. Croix	3		WC	2504930	T31N	R18W	05	NE	SE
DRY DAM LAKE	St. Croix	28	4	WC	2461600	T29N	R19W	01	SW	NE

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EAST TWIN LAKE	St. Croix	65		WC	2462300	T29N	R18W	29	SE	SE
UN LAKE (Erickson)	St. Croix	52		WC	2597700	T31N	R17W	30	SE	NE
FALLS LAKE, LITTLE	St. Croix	172	18	WC	2607400	T29N	R19W	08	SW	NE
GEORGE LAKE* (Spring Valley)	St. Croix/Pierce	126	29	WC	2059800	T27N	R15W	06	NE	NE
GLEN LAKE	St. Croix	84	38	WC	2071700	T29N	R15W	11	NW	SE
GOOSE POND	St. Croix	14	2	WC	2609000	T31N	R17W	33	SE	SE
UN LAKE (Hammond Pond)	St. Croix	1		WC	2503950	T29N	R17W	28	SW	NE
HARMIN LAKE	St. Croix	17	6	WC	2612500	T31N	R15W	06	SE	SW
HATFIELD LAKE	St. Croix	90	9	WC	2468200	T31N	R18W	25	SE	SW
HUNTINGTON FLOWAGE	St. Croix	58		WC	2616950	T31N	R18W	11	NE	NE
UN LAKE (Kruizenga)	St. Croix	1		WC	2597900	T31N	R17W	05	SE	NW
LAKE MALLALIEU	St. Croix	270	17	WC	2607100	T29N	R20W	24	SW	NW
LEVESQUE SPRING	St. Croix	2	6	WC	2614400	T30N	R19W	01	SW	NW
LITTLE BUSHY LAKE	St. Croix	6	4	WC	2072400	T30N	R15W	04	NW	SW
LITTLE FALLS LAKE	St. Croix	172	18	WC	2607400	T29N	R19W	08	SW	NE
LONG POND	St. Croix	9		WC	2478500	T30N	R18W	13	NE	NW
LUNDY POND	St. Croix	22		WC	2480400	T30N	R18W	22	NE	SW
UN LAKE (Lundy Pond South)	St. Croix	1		WC	2598000	T30N	R18W	22	SE	SW
MALLALIEU, LAKE	St. Croix	270	17	WC	2607100	T29N	R20W	24	SW	NW
MCCLURE FLOWAGE	St. Croix	22		WC	2614750	T31N	R18W	14	NE	NW
MOUNDS POND	St. Croix	57	37	WC	2607800	T29N	R19W	02	NW	SE
NEW RICHMOND FLOWAGE	St. Croix	236	15	WC	2608800	T31N	R18W	36	SE	SW
NORTH BASS LAKE	St. Croix	33		WC	2485500	T30N	R19W	11	NE	SE
OAK RIDGE LAKE	St. Croix	149		WC	2486800	T31N	R17W	09	NE	SW
PERCH LAKE	St. Croix	43	63	WC	2488300	T30N	R19W	28	SW	SW

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PINE LAKE	St. Croix	107	21	WC	2489700	T29N	R17W	01	NE	NE
PINE LAKE	St. Croix	89	19	WC	2489800	T31N	R19W	10	SW	NW
UN LAKE (Radtke Pond)	St. Croix	2		WC	2504370	T30N	R19W	19	SW	NW
RIVERDALE FLOWAGE	St. Croix	75	20	WC	2614600	T31N	R18W	31	SW	NE
LAKE ST CROIX*	St. Croix/Pierce	4668	60	WC	2601500	T26N	R20W	09	SE	SE
SHANK LAKE	St. Croix	6		WC	2496200	T29N	R19W	12	SE	SW
SOMERSET FLOWAGE	St. Croix	83		WC	2614250	T30N	R19W	03	NW	NE
SQUAW LAKE	St. Croix	129	32	WC	2499000	T31N	R18W	08	SE	SE
STRAND LAKE	St. Croix	21	16	WC	2499600	T31N	R18W	22	SE	NE
THREE LAKES	St. Croix	85	5	WC	2501400	T29N	R18W	05	NW	NE
TURTLE LAKE	St. Croix	27	12	WC	2502800	T31N	R19W	24	SW	SE
TWIN LAKE, EAST	St. Croix	65		WC	2462300	T29N	R18W	29	SE	SE
TWIN LAKE, WEST	St. Croix	97		WC	2598900	T29N	R18W	29	NE	SE
UN LAKE	St. Croix	2	5	WC	2503700	T28N	R18W	15	NE	SE
UN LAKE	St. Croix	1	3	WC	2503800	T28N	R18W	15	NE	SE
UN LAKE	St. Croix	4	7	WC	2606750	T28N	R20W	13	NW	NE
UN LAKE	St. Croix	8	3	WC	2503900	T29N	R17W	12	NE	NE
UN LAKE (Hammond Pond)	St. Croix	1		WC	2503950	T29N	R17W	28	SW	NE
UN LAKE	St. Croix	3	5	WC	2504000	T29N	R18W	15	NE	NE
UN LAKE	St. Croix	3	5	WC	2606200	T29N	R17W	11	SW	NW
UN LAKE	St. Croix	12	10	WC	2606400	T29N	R17W	03	NE	SE
UN LAKE	St. Croix			WC	2071500	T29N	R15W	02	NW	SE
UN LAKE (Lundy Pond South)	St. Croix	1		WC	2598000	T30N	R18W	22	SE	SW
UN LAKE	St. Croix	2	5	WC	2072500	T30N	R15W	05	NE	SE
UN LAKE	St. Croix			WC	2073300	T30N	R15W	33	SE	SE
UN LAKE	St. Croix	1	7	WC	2504100	T30N	R16W	10	NE	SW
UN LAKE	St. Croix	1	6	WC	2504200	T30N	R16W	11	SW	SW
UN LAKE	St. Croix	3	5	WC	2504300	T30N	R16W	16	SW	NW
UN LAKE (Walker Pond)	St. Croix	5		WC	2504350	T30N	R17W	36	SW	NE
UN LAKE (Radtke Pond)	St. Croix	2		WC	2504370	T30N	R19W	19	SW	NW
UN LAKE	St. Croix	10	6	WC	2504400	T30N	R19W	26	SW	SE
UN LAKE	St. Croix	11	6	WC	2504500	T30N	R19W	26	SE	SW

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UN LAKE	St. Croix	10		WC	2504590	T30N	R19W	35	SW	NW
UN LAKE	St. Croix	35	7	WC	2504600	T30N	R19W	35	NW	SW
UN LAKE	St. Croix	1	3	WC	2610100	T30N	R16W	32	SW	NE
UN LAKE	St. Croix	1	5	WC	2611300	T30N	R16W	01	SW	NE
UN LAKE	St. Croix	1	5	WC	2611400	T30N	R16W	01	NE	SE
UN LAKE	St. Croix			WC	2072300	T30N	R15W	03	SE	NW
UN LAKE	St. Croix			WC	2073200	T30N	R15W	28	NW	SE
UN LAKE	St. Croix			WC	2073800	T30N	R15W	22	SE	SW
UN LAKE	St. Croix	15	4	WC	2504700	T31N	R16W	36	NW	SE
UN LAKE	St. Croix	40		WC	2504730	T31N	R17W	10	NW	SW
UN LAKE	St. Croix	5	4	WC	2504800	T31N	R17W	32	NW	NW
UN LAKE	St. Croix	3	3	WC	2504900	T31N	R17W	32	NW	SW
UN LAKE (Demulling Pond)	St. Croix	3		WC	2504930	T31N	R18W	05	NE	SE
UN LAKE	St. Croix	2	8	WC	2505000	T31N	R18W	22	SW	NW
UN LAKE	St. Croix	6	4	WC	2505100	T31N	R18W	36	SE	SE
UN LAKE	St. Croix	3		WC	2505150	T31N	R19W	04	NW	SE
UN LAKE	St. Croix	4	4	WC	2505200	T31N	R19W	10	SW	NE
UN LAKE (Amschler)	St. Croix	13		WC	2597300	T31N	R17W	17	SW	NW
UN LAKE	St. Croix	2		WC	2597400	T31N	R19W	10	NW	NW
UN LAKE (Bass)	St. Croix	6	8	WC	2597500	T31N	R19W	10	SE	NW
UN LAKE (Erickson)	St. Croix	52		WC	2597700	T31N	R17W	30	SE	NE
UN LAKE (Kruizenga)	St. Croix	1		WC	2597900	T31N	R17W	05	SE	NW
UN LAKE	St. Croix	12	6	WC	2614700	T31N	R18W	15	SW	SE
UN LAKE	St. Croix		10	WC	2614900	T31N	R18W	11	NW	NE
UN SPRING	St. Croix	3	6	WC	2613800	T29N	R20W	02	NE	NE
UN SPRING	St. Croix	1	6	WC	2608000	T30N	R18W	21	SE	SW
UN LAKE (Walker Pond)	St. Croix	5		WC	2504350	T30N	R17W	36	SW	NE
WEST TWIN LAKE	St. Croix	97		WC	2598900	T29N	R18W	29	NE	SE

Key:

NE = Northeast, NO = Northern, SC = South Central, SE = Southeast, and WC = West Central DNR Region
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Produced By: Wisconsin DNR, Bureau of Fisheries Management and Habitat Protection.
For comments corrections or updates contact: James Vennie Lake Data Coordinator 608-266-2212

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